

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

FLORIDA

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

THE PREMISES LOCATED AT
2829 INDIAN CREEK DRIVE, #1409
MIAMI BEACH, FLORIDA 33140

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

Case Number: 08-2152-57B

I, Christopher A. Wells being duly sworn depose and say:

I am a(n) Special Agent of the Drug Enforcement Administration and have reason to believe
Official Titlethat ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

the Premises Located at 2829 Indian Creek Drive, #1409, Miami Beach, Florida 33140 (more particularly described in Attachment A)

in the SOUTHERN District of FLORIDA

there is now concealed a certain person or property, namely (describe the person or property to be seized)

narcotics, medical records, patient files, records of prescriptions, and other records and evidence (more particularly described in Attachment B)

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

evidence of the distribution and dispensing of a controlled substance, outside the scope of professional practice and not for a legitimate medical purpose,

concerning a violation of Title 21 United States code, Section(s) 841(a)(1)

The facts to support a finding of probable cause are as follows:

See Attached Affidavit of Special Agent Christopher A. Wells

Continued on the attached sheet and made a part hereof:

Christopher A. Wells

Name of Affiant

☒ Yes ☐ No

Signature of Affiant

Sworn to before me and subscribed in my presence,

Date

2/08/08

at

Miami
CityFlorida
State

Stephen T. Brown

Name of Judge

Title of Judge

Signature of Judge

AFFIDAVIT

I, Christopher A. Wells, Special Agent, Drug Enforcement Administration (DEA), Miami, Florida, being duly sworn, state as follows:

1. I am a Special Agent with the DEA, assigned to the Miami Field Division. I have been a Special Agent for over three and a half years. As a Federal Agent of the United States Department of Justice, I am authorized to conduct criminal investigations of violations of Title 21 of the United States Code. I have received extensive training in conducting narcotics investigations and in identifying the means and methods used by narcotics traffickers. I have conducted or participated in numerous investigations of this nature. Much of this training and experience has been directed at the detection, investigation, seizure and prosecution of individuals involved in the manufacture, possession and distribution of controlled substances. I have also received training in money laundering investigations, including investigations involving structured transactions.

2. I am currently involved in an investigation of Dr. Ali SHAYGAN concerning his illegal distribution and dispensing of controlled substances, outside the scope of professional practice and not for a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).

3. This affidavit is being submitted in support of a search warrant for the premises located at 2829 Indian Creek Drive #1409, Miami Beach, Florida 33140 (hereinafter, the "TARGET LOCATION"), and more specifically described in Attachment A, which is attached to this affidavit and incorporated by reference herein. The TARGET LOCATION is a condominium unit owned by SHAYGAN that is SHAYGAN's primary residence.

4. The facts and circumstances as set forth below in this affidavit demonstrate that there is probable cause to believe that at the TARGET LOCATION are records relating to the illegal distribution and dispensing of narcotics by SHAYGAN, as described more fully below and in Attachment B, which relate to the offenses of which SHAYGAN was indicted.

5. This affidavit is based on personal knowledge, as well as information provided by other law enforcement officers and Cooperating Defendants. This affidavit does not necessarily contain all the facts pertaining to this investigation, but only those facts needed to establish probable cause for the requested search warrant.

6. In or about February 2007, a Cooperating Defendant (CD1) told me that SHAYGAN was selling prescriptions for controlled narcotics for cash payment with no medical examination. Specifically, CD1 stated that SHAYGAN was writing prescriptions for large quantities of pain medication. CD1 stated that SHYAGAN would see individuals at the TARGET LOCATION. CD1 further stated that he purchased prescriptions for controlled narcotics from SHAYGAN at the TARGET LOCATION. CD1 would then fill those prescriptions and illegally sell the narcotics.

7. In or about March 2007, I seized one half pound of methamphetamine from a second Cooperating Defendant (CD2). Also seized from CD2 was a black briefcase containing a prescription written for CD2 by SHAYGAN. The address of the TARGET LOCATION was printed on the prescription as the location of SHAYGAN's medical practice. CD2 told me that SHAYGAN would write him prescriptions for any medication that CD2 requested.

8. A search with the DEA physician registration system revealed that SHAYGAN registered DEA number FS0036029 at the TARGET LOCATION as a location where he can see up to thirty (30) drug-addicted patients.

9. On September 26, 2007, an Undercover detective (U/C1) conducted a "walk-in" at SHAYGAN's office, located at 550 11th Street, Suite 211, Miami Beach, Florida, to see SHAYGAN. During this visit, SHAYGAN asked U/C1 if he had any medical records with him, at which time U/C1 told SHAYGAN that he did not. SHAYGAN stated that it was against Federal law for him to prescribe any controlled narcotics to patients without any documentation or medical records. At that time, SHAYGAN checked U/C1's heart, breathing and ears. SHAYGAN then checked the strength of U/C1's legs and arms by using his (SHAYGAN's) strength as resistance. In each exercise, U/C1 nearly knocked SHAYGAN off his feet. As SHAYGAN conducted these exercises, he asked U/C1 if they hurt his back, and U/C1 replied that they did not. SHAYGAN asked U/C1 if it hurt his back to bend forward or backward, and U/C1 again replied that it did not. SHAYGAN then pressed on U/C1's back from top to bottom while asking U/C1 if his back hurt. U/C1 stated that it did not. SHAYGAN then gave U/C1 prescriptions for Roxycodone, Norco, Alprazolam, Soma and an X-Ray. SHAYGAN also set up an appointment for U/C1 on October 22, 2007.

10. When U/C1 arrived for his appointment on October 22, 2007, SHAYGAN asked U/C1 how he was feeling. U/C1 explained that he was alright, but that he had run out of the pills that SHAYGAN had prescribed. SHAYGAN then asked U/C1 how much he would need. U/C1 explained that if he got 150 Roxicodones and 150 Norcos, it would be sufficient. SHAYGAN then stated that he could prescribe 120 of each and double the Alprazolam. SHAYGAN then asked U/C1 what Norcos were. U/C1 explained that Norcos were Oxycodone, like Percocets, but stronger. SHAYGAN explained to U/C1 that he was always available, and that if U/C1 ran out of pills U/C1 could just call SHAYGAN to have him prescribe more. U/C1 asked the doctor if he could have a friend set up an appointment with SHAYGAN. SHAYGAN advised U/C1 to

talk to the office assistant. UC/1 then got a phone number from the office assistant and provided it to a second Undercover detective (U/C2), who then set up an appointment for October 26, 2007.

11. On October 26, 2007, U/C2 arrived at SHAYGAN's office. SHAYGAN asked U/C2 if he had his medical records. U/C2 explained that he was seeing a doctor who was not available and, as a result, he needed to get his prescriptions from another source. SHAYGAN asked U/C2 basic questions and had him fill out a form. U/C2 told SHAYGAN that he was taking Methadone, Roxicodone, Norco, Soma, and Alprazolam. SHAYGAN then checked U/C2's heart, breathing, and ears. SHAYGAN then checked the strength in U/C2's legs and arms by using his strength (SHAYGAN's) as resistance. As SHAYGAN conducted these exercises, he asked if they hurt U/C2's back, and U/C2 replied that they did not. SHAYGAN then asked if it hurt his back to bend forward or backward, and U/C2 again stated that it did not. SHAYGAN then provided U/C2 with a form about methadone use. The form was a photocopy of a newspaper article. SHAYGAN asked U/C2 to read, sign and date it. SHAYGAN then prescribed U/C2 Methadone, Roxicodone, Norco, Soma, and Alprazolam.

12. On November 14, 2007, SHAYGAN called U/C1 to reschedule his next appointment from November 19, 2007 to November 16, 2007. U/C1 agreed but said that U/C2 could not come on November 16, 2007. SHAYGAN said he could "work something out" and suggested that U/C1 pick up U/C2's prescriptions for him.

13. On November 16, 2007, U/C1 arrived at SHAYGAN's office for the scheduled appointment. SHAYGAN asked U/C1 how his back was doing. U/C1 said he was doing OK. SHAYGAN asked how the medications were working, and U/C1 replied that they were working OK. SHAYGAN then checked U/C1's blood pressure and advised that he would prescribe a

medication to lower U/C1's blood pressure because it was a little high. SHAYGAN advised that he wanted to see if there were any muscle spasms. After examining U/C1's back, SHAYGAN stated that there were no spasms, so the issues must be from the "bones." SHAYGAN inquired about the X-Rays that U/C1 had taken. U/C1 told SHAYGAN that he contacted SHAYGAN's office assistant with the phone number to call for the results of the X-Rays. SHAYGAN stated that he did not get the number. Shortly thereafter, SHAYGAN began filling out U/C1's prescriptions, and U/C1 reminded SHAYGAN to write the prescriptions for U/C2. SHAYGAN asked U/C1 how long U/C2 was going to be out of town. U/C1 told SHAYGAN that he would be out for about two (2) weeks. SHAYGAN then called U/C2 and asked when he would be back in town. U/C2 advised that he would be back on December 1, 2007. SHAYGAN then asked U/C2 if it was alright if U/C1 picked up U/C2's prescriptions. U/C2 stated that it was. SHAYGAN then filled the prescriptions for U/C2, placed them in an envelope, and handed them to U/C1.

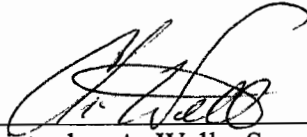
14. On January 8, 2008, law enforcement officers established surveillance in the vicinity of the TARGET LOCATION. At approximately 12:30 p.m., law enforcement officers observed SHAYGAN as he walked to the rear of his vehicle and placed a folder and paperwork into a black briefcase. SHAYGAN then placed the black briefcase into the trunk and departed the parking garage. SHAYGAN then drove to his office at 550 11th Street, Miami Beach, Florida, where he exited his vehicle, retrieved the black briefcase, and entered the building.

15. On January 15, 2008, U/C1 contacted SHAYGAN in an attempt to set up an appointment. U/C1 informed SHAYGAN that he was coming in from out of town and should arrive at 6:00 p.m. SHAYGAN advised that he could see U/C1 at his office at 8:00 p.m. U/C1 contacted SHAYGAN at approximately 8:00 p.m. and told SHAYGAN that he was stuck in

traffic. SHAYGAN said that he was still with a patient and told U/C1 that he would call him when the patient left. At approximately 9:00 p.m., SHAYGAN called U/C1, but U/C1 did not answer. When U/C1 returned SHAYGAN's call, SHAYGAN stated that he was leaving the office to drop medication off at a friend's house, but he would be available in approximately fifteen minutes. SHAYGAN then told U/C1 that he could see him at the TARGET LOCATION. SHAYGAN then gave U/C1 directions to the TARGET LOCATION.

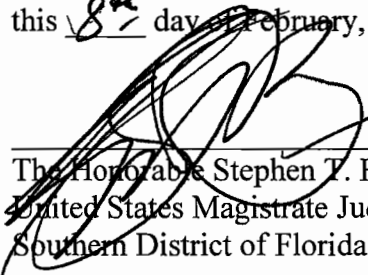
16. U/C1 drove to the TARGET LOCATION and parked where SHAYGAN was waiting for him on the sidewalk. SHAYGAN then led U/C1 into the TARGTE LOCATION where he checked U/C1's blood pressure but conducted no other examination. SHAYGAN then gave U/C1 prescriptions for Roxicodone, Norco, Xanax and Soma. SHAYGAN also provided U/C1 a thirty day supply of blood pressure medication. SHAYGAN stated that he had Soma "somewhere in the house," but that he would just fill out the prescription instead of trying to find it. SHAYGAN also stated that he received U/C1's X-Ray that was taken in October of 2007. SHAYGAN stated that there was no need to get an MRI and that he could continue to see U/C1. U/C1 observed numerous folders laying about the floor, table, and desk of the TARGET LOCATION that were consistent with the type SHAYGAN used in his office for patients. U/C1 remarked to SHAYGAN that SHAYGAN takes a lot of work home with him. SHAYGAN replied that it was normal for him to do so.

17. Based on the information contained in this affidavit, I believe that there is probable cause to believe that those items listed in Attachment B will be located at the TARGET LOCATION. I further believe that such items constitute evidence of the distribution and dispensing of a controlled substance, outside the scope of professional practice and not for a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).



Christopher A. Wells, Special Agent
Drug Enforcement Administration
U.S. Department of Justice

Sworn to and subscribed before me
this 8th day of February, 2008.

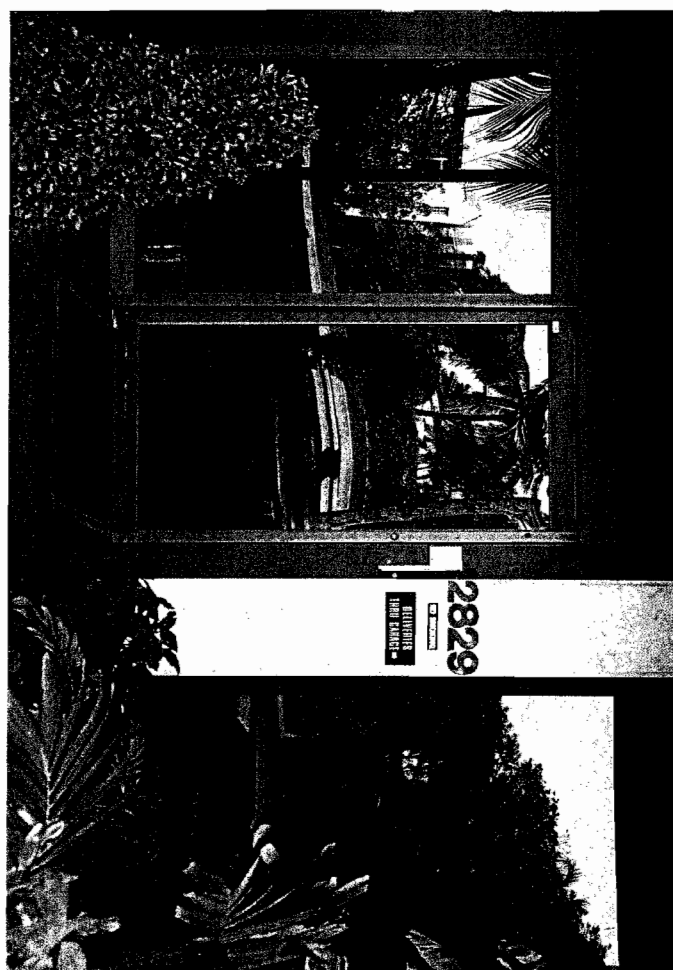


The Honorable Stephen T. Brown
United States Magistrate Judge
Southern District of Florida

ATTACHMENT A

Description of the premises to be searched

2829 Indian Creek Drive, #1409, Miami Beach, Florida 33140. This is a single condominium unit in multi-story stucco condominium building, white in color. The lobby is on the first floor and is accessed via the garage or key card front glass doors. Inside the lobby, two elevators travel to multiple floors of the building. A white plate with the numbers 1409 is affixed to the front door of the unit. The door is green in color with white wooden trim. Photographs of the premises are attached hereto.



ATTACHMENT B

1. Any and all controlled substances and narcotics paraphernalia, including but not limited to, packaging materials, transportation equipment, scales, and other related equipment.
2. Controlled Substance records, in particular ledgers, account books, notes of transactions, records of names and/or code names or nicknames, and/or identifying information reflecting customers, items bought and sold, and amounts of money, paid, owed, or collected.
3. Any and all customer lists or any notes containing the individual names, telephone numbers and/or addresses, and any corresponding records of accounts receivable, money paid or received, drugs supplied or received, or cash received or intended to be paid.
4. Records of controlled substances prescribed, received, sold, delivered or otherwise disposed of.
5. Notes, papers, receipts, documentary business records, appointment books, medical records, and patient files reflecting patients seen, medical examinations conducted, and medications prescribed.
6. United States currency, financial instruments, precious metals, jewelry, safes and other items of value and/or proceeds of drug transactions.
7. Bank statements, loan applications, money drafts, letters of credit, money orders, cashier's checks, bank checks, safe deposit box keys, vault keys, safes, any and all documents relating to banking activities and other financial transactions, including the purchase of real estate, and documents showing ownership of real estate.
8. Telephone and address books or notes containing telephone numbers and addresses.
9. Any and all appointment calendars and electronic or digital organizers.
10. Computerized records and/or information that may be stored on magnetic media containing information described in records authorized to be searched and/or seized by this warrant.
11. Any and all records, indicators of ownership, possession or control of the computer equipment, accessories, telephones and modems.
12. Any and all tapes, cassettes, hardware, computer discs, data discs, magnetic media, hard discs, tape systems, CD ROM discs, optical data storage media, and other related optional computer equipment.
13. Indicia of ownership or control over the premises.

United States District Court

SOUTHERN

DISTRICT OF

FLORIDA

In the Matter of the Search of
(Name, address or brief description of property or premises to be searched)

SEARCH WARRANT

THE PREMISES LOCATED AT
2829 INDIAN CREEK DRIVE, #1409
MIAMI BEACH, FLORIDA 33140

CASE NUMBER: 08-2152-STB

TO: United States Department of Justice, Drug Enforcement Administration and any Authorized Officer of the United States

Affidavit(s) having been made before me by Special Agent Christopher A. Wells who has reason to
Affiant

believe that ☐ on the person of or ☒ on the premises known as (name, description and/or location)

the Premises Located at 2829 Indian Creek Drive, #1409, Miami Beach, Florida 33140 (more particularly described in Attachment A)

in the SOUTHERN District of FLORIDA there is now concealed a certain person or property, namely (describe the person or property)

narcotics, medical records, patient files, records of prescriptions, and other documents and evidence reflecting the illegal dispensing and distribution of a controlled substance, outside the scope of professional practice and not for a legitimate medical purpose (more particularly described in Attachment B)

I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before

2/15/08
(Date)

(not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search (in the daytime - 6:00 A.M. to 10:00 P.M.) (at any time in the day or night as I find reasonable cause has been established) and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to Duty Magistrate Judge as required by law.
U.S. Judge or Magistrate Judge

2/08/08
Date and Time Issued

at Miami, Florida
City and State

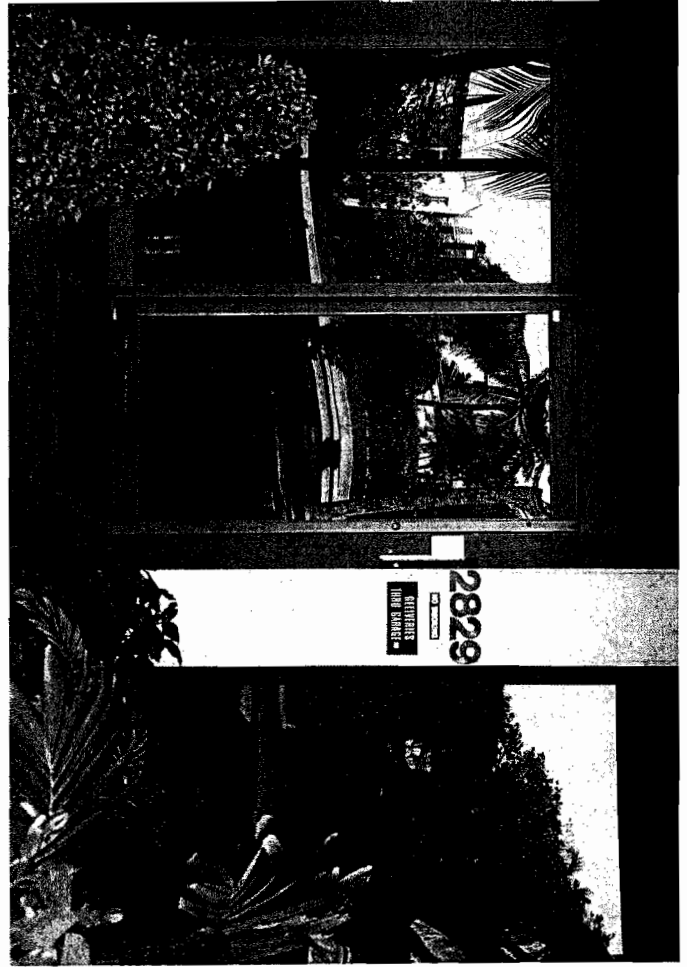
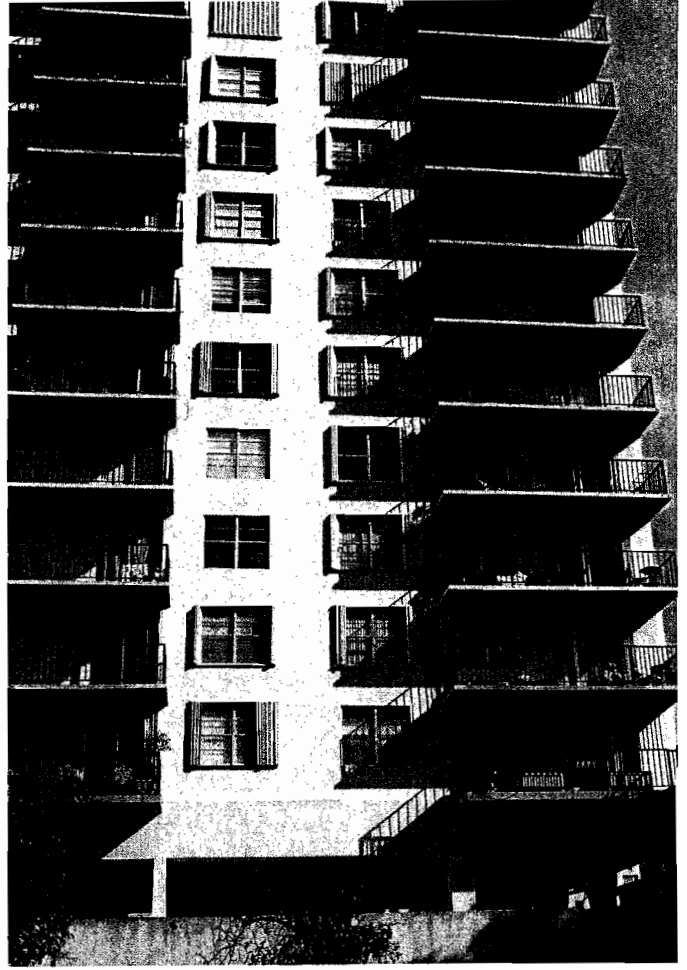
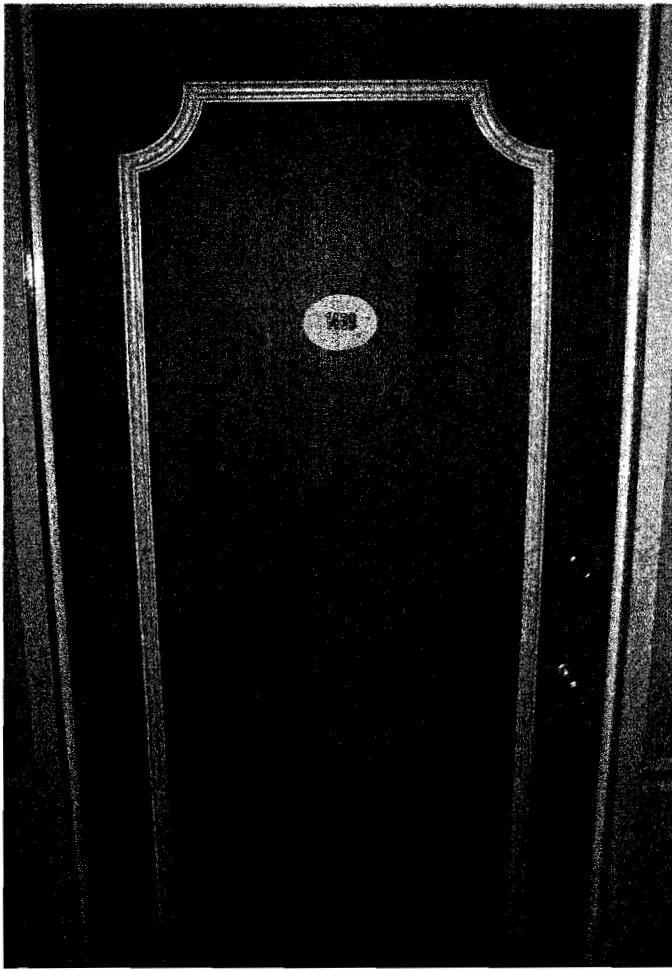
Stephen T. Brown
United States Magistrate Judge
Name and Title of Judicial Officer

Signature of Judicial Officer

ATTACHMENT A

Description of the premises to be searched

2829 Indian Creek Drive, #1409, Miami Beach, Florida 33140. This is a single condominium unit in multi-story stucco condominium building, white in color. The lobby is on the first floor and is accessed via the garage or key card front glass doors. Inside the lobby, two elevators travel to multiple floors of the building. A white plate with the numbers 1409 is affixed to the front door of the unit. The door is green in color with white wooden trim. Photographs of the premises are attached hereto.



ATTACHMENT B

1. Any and all controlled substances and narcotics paraphernalia, including but not limited to, packaging materials, transportation equipment, scales, and other related equipment.
2. Controlled Substance records, in particular ledgers, account books, notes of transactions, records of names and/or code names or nicknames, and/or identifying information reflecting customers, items bought and sold, and amounts of money, paid, owed, or collected.
3. Any and all customer lists or any notes containing the individual names, telephone numbers and/or addresses, and any corresponding records of accounts receivable, money paid or received, drugs supplied or received, or cash received or intended to be paid.
4. Records of controlled substances prescribed, received, sold, delivered or otherwise disposed of.
5. Notes, papers, receipts, documentary business records, appointment books, medical records, and patient files reflecting patients seen, medical examinations conducted, and medications prescribed.
6. United States currency, financial instruments, precious metals, jewelry, safes and other items of value and/or proceeds of drug transactions.
7. Bank statements, loan applications, money drafts, letters of credit, money orders, cashier's checks, bank checks, safe deposit box keys, vault keys, safes, any and all documents relating to banking activities and other financial transactions, including the purchase of real estate, and documents showing ownership of real estate.
8. Telephone and address books or notes containing telephone numbers and addresses.
9. Any and all appointment calendars and electronic or digital organizers.
10. Computerized records and/or information that may be stored on magnetic media containing information described in records authorized to be searched and/or seized by this warrant.
11. Any and all records, indicators of ownership, possession or control of the computer equipment, accessories, telephones and modems.
12. Any and all tapes, cassettes, hardware, computer discs, data discs, magnetic media, hard discs, tape systems, CD ROM discs, optical data storage media, and other related optional computer equipment.
13. Indicia of ownership or control over the premises.